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November 20, 1958

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CONCORD, N.H.

Mr. James W. Nelson  
Deputy Bank Commissioner  
State House  
Concord, New Hampshire

Dear Mr. Nelson:

This is to acknowledge receipt of your letter of November 12, 1958 with which you enclosed a copy of a letter to Bank Commissioner Winfield J. Phillips dated October 3, 1958 from Albert E. MacLennan, Field Supervisor of the Union Mutual Life Insurance Company, together with a letter to you from said MacLennan dated November 7, 1958.

Although your letter contains no specific inquiry, we gather from the two letters from the Union Mutual Life Insurance Company and additional facts contained in your letter, that you seek an opinion from this office as to the manner in which the Bank Commissioner in supervising the affairs of The Valley Trust Company under RSA 395, should handle certain funds now held by The Valley Trust Company resulting from collections on mortgages owned by the Union Mutual Life Insurance Company and the United Life & Accident Insurance Company of Concord.

We did not feel that there was sufficient information in your letter and pursuant to our request Mr. Constantine R. Egounis wrote to us under date of November 17, 1958 explaining the arrangement which was made between The Valley Trust Company and the two insurance companies in question. A photostat copy of Mr. Egounis' letter is attached hereto.

On the basis of the information submitted to us it appears that numerous mortgages originally held by The Valley Trust Company as mortgages were assigned to the two insurance companies, and that an agreement was entered into between said companies and The Valley Trust Company whereby The Valley Trust Company continued to make collection of the installments due on said mortgages in consideration of a service fee for such collections. Mr. Egounis has explained that in order to facilitate internal bookkeeping, the receipts from these accounts were deposited in the commercial department of The Valley Trust Company to the credit of

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Mr. James W. Nelson  
Deputy Bank Commissioner

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the insurance companies involved, and that periodic remittances were made in settlement by charging the account and issuing a treasurer's check for the amount due.

Although these funds were in the "demand deposit" category at the time Valley Trust was closed, it appears that no check books were ever issued to the insurance companies or any signature cards ever filed by said companies.

On the basis of the facts submitted, it appears that the arrangement did not contemplate that The Valley Trust Company should have any beneficial interest in the funds so collected other than a service fee. While the funds were treated as demand deposits solely as a matter of convenience to facilitate bookkeeping, we do not believe said funds to be demand deposits at all. We believe such funds are held by the bank merely in escrow for the benefit of the insurance companies involved and that the bank was a mere trustee or bailee of said funds. Accordingly it is our advice that the Commissioner should remit the amount due to said insurance companies less the agreed amount of the service fee.

Very truly yours,

GTR,Jr/m

George T. Ray, Jr.  
Assistant Attorney General